

ORDINANCE 08-08

AN ORDINANCE AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NUMBER 00-08, ALSO KNOWN AS THE TOWN ANIMAL CONTROL ORDINANCE, PROVIDING FOR ENFORCEMENT BY TOWN AND TOWN DESIGNEES; MODIFYING LEASH PROVISIONS FOR DOGS ON THE BEACH AND OTHER PUBLIC AREAS AS DEFINED IN THE ANIMAL CONTROL ORDINANCE; EFFECT OF ORDINANCE; AND EFFECTIVE DATE.

**IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

WHEREAS, Article VIII, Section 2 of the Constitution of the State of Florida and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council finds that there is a public need affecting life, health, property or the public peace of persons inside the municipal limits of the Town with regard to dogs running loose within the Town municipal limits and the inability of Town employees or Town designees to enforce the provisions of the Town Ordinance 00-08, also known as the Town Animal Control Ordinance; and

**IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

SECTION 1. Incorporation of "Whereas" Clauses. The above "Whereas" clauses are hereby incorporated by reference.

SECTION 2. Addition and Deletion of Language. Language being added to the Ordinance shall be shown through underlining. Language being deleted shall be shown in ~~strike-through~~ format.

SECTION 3. Modification of Section Three of Ordinance 00-08. The definitions set forth in Section Three of Ordinance 00-08 are modified as follows:

**ANIMAL CONTROL OFFICER:** Any person employed by or appointed by Lee County or the Town of Fort Myers Beach who is authorized to investigate, pursuant to law, civil infractions or criminal offenses related to Animal Control or animal cruelty and to issue citations as provided in this ordinance and to file charges based on such investigation. Any reference in this Ordinance to "Lee County Animal Control Officer(s)" shall be automatically modified to include any person employed by or appointed by the Town of Fort Myers Beach for that purpose.

**DESIGNEE:** Person designated by the Town Manager to fulfill the role of Animal Control Officer in the absence of the regularly employed or appointed Animal Control Officer. ~~the Public Safety or Animal Control Director.~~

**RESTRAINT:** Restraint for the purpose of this ordinance shall be defined as "The restraint of an animal by leash, fence, building, chain, cage, crate or other secure enclosure that prevents such animal from roaming at large". Dogs that are restrained exclusively by a chain or tether may be so restrained if the restraint is at least ten (10) feet in length; This may be attached to a pulley or trolley mounted on a cable. No chain or tether shall weigh more than 1/8 of the dog's weight and shall have swivels on both ends. Any dog on or in any public area including sidewalks, streets, beaches or other public areas as allowed under the ordinance must be restrained at all times by a hand-held leash which is not more than six (6) feet in length. Any dog on or in any public area that is so restrained must be withdrawn from contact with any person/s approaching or passing so that the dog has no contact opportunity with any person/s. Under no circumstances may a dog be restrained in any public area by any means other than a handheld leash of not more than 6 feet in length, except and unless such dog is a guide dog as defined elsewhere in this Ordinance. Each chain, tether or leash shall be attached to a properly fitting collar or harness. Animals must be restrained in a clear area free from obstruction or vermin-harboring debris.

**SECTION 4. Modification of Section Five of Ordinance 00-08.** Section Five of Ordinance 00-08 is hereby modified as follows:

The Lee County Animal Control Enforcement Agency, hereafter referred to as the Animal Control Agency, is hereby designated as the an enforcement agency for the Town of Fort Myers Beach; however, the Town shall have the ability to utilize the services of Town staff or third parties, in the Town's sole discretion, to provide enforcement of the provisions of this Ordinance. Any person given the authority to enforce this Ordinance shall be qualified under applicable State and other law and (it) shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge to duties of the office. Those persons designated as Animal Control Officers of ~~the Lee County~~ shall have the authority to issue citations and to enforce this Ordinance and the Laws of the State of Florida relating to animals.

**SECTION 5. Severability.** If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

**SECTION 6. Effect of Ordinance.** The provisions of this Ordinance shall be deemed cumulative and supplemental and shall have no legal effect upon the ordinances of the Town of Fort Myers Beach, except as expressly provided.

SECTION 7. Effective Date. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Babcock and seconded by Council Member List and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor aye  
Herb Acken, Vice Mayor nay  
Bob Raymond aye

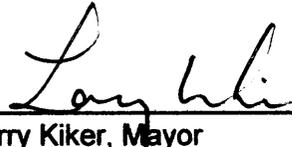
Tom Babcock aye  
Jo List aye

DULY PASSED AND ENACTED this 14<sup>th</sup> day of July, 2008

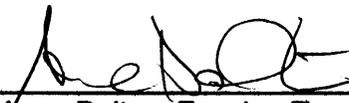
ATTEST:

TOWN OF FORT MYERS BEACH

By:   
Michelle D. Mayher, Town Clerk

By:   
Larry Kiker, Mayor

Approved as to legal form and sufficiency by:

  
Anne Dalton, Esquire, Town Attorney